

REMARKS

Reconsideration of the above-identified application is respectfully requested.

Claims 1–5 were rejected as anticipated* by Viot et al. The Examiner relies on accumulator 20 as disclosed by the Viot et al. patent. The paragraph bridging columns 3 and 4 in the Viot et al. patent discloses the following.

“The input signal ... is also coupled to a count input of pulse accumulator 20. As is familiar in the art, a pulse accumulator is a multi-bit up- or down-counter which receives a randomly occurring count signal. Each active transition of the count signal causes the multi-bit value in the pulse accumulator to be incremented or decremented by one. Pulse accumulator also receives a reset control signal input which, when active, causes the contents of the pulse accumulator be reset to a known state, commonly all zeroes. Thus, the contents of pulse accumulator 20 represent the number of active transitions of the input signal which have occurred since the last time the reset signal was active. Although not illustrated here, pulse accumulator 20 may also be preset to a particular value by a user of digital timer apparatus 10.”

The following is disclosed at column 11, lines 26–31.

“The contents of pulse accumulator 20 are incremented by one each time an active signal is received at the count input. In this embodiment of the present invention, when pulse accumulator reaches its maximum capacity it simply stops incrementing when additional count pulses are received.”

What does the Viot et al. patent disclose? Stop incrementing at capacity. What are applicants claiming? Impose a predetermined value on rollover. It is respectfully submitted that the Viot et al. patent does not disclose or suggest applicants' invention.

The Examiner asserts that logic for preventing roll-over is not shown because it is well known. Is this Official Notice? If so, it is improperly taken. Perhaps the logic

* The claims were rejected as anticipated (§102). The proper verb for anticipation is “disclose”. The proper verb for obviousness is “teach.” The Examiner uses “teach” while discussing anticipation, making it confusing to read the reasons for rejection. By analogy, it is like referring to a bipolar transistor as an MOS transistor. Proper terminology should have been taught during the Examiner's initial training for new hires and certainly during the Academy, if the PTO still has the Academy. The reason for the difference in terminology is that the law for anticipation is quite different from the law for obviousness.

is not shown because it is not there. The innards of accumulator 20 are not disclosed. Presuming a particular circuit configuration is unjustified.

Where does the Viot et al. patent specifically disclose setting a boundary? To what element in FIGS. 1-6 is the Examiner referring? Nothing has been found in the broad references to the specification by the Examiner. The Examiner's reliance on the claims as disclosure (reference to column 20) is improper; *In re Benno*, 226 USPQ 683, 686 (Fed. Cir. 1985). It is respectfully submitted that no boundary is shown or described. As apparent from the above-quoted portion of the specification, the Viot et al. patent operates on time, not quantity. That is, the accumulator is periodically reset to a value. The resetting has nothing to do with the count at the time of reset.

There is no disclosure of a boundary. There is no disclosure of setting to a predetermined count when the boundary is exceeded. Claims 2-5 recite additional details not disclosed in the Viot et al. patent. There is no anticipation.

Claims 6-8 were rejected as unpatentable over Viot et al. when combined with additional prior art. The additional prior art overcomes none of the inadequacies in the Viot et al. patent described above. There is no basis for the combination and it is not clear that the alleged combination would be operative.

Claims 7 and 8 were regarded as "essentially similar" to claim 6. The quoted term has no clear meaning. Further, this characterization has no basis in patent law and is not properly part of an examination. Each claim is supposed to be treated on its own merits. Not to do so is error.

Claims 9-11 were rejected as unpatentable over Viot et al. in view of Ku et al. There is no basis for the combination. The Viot et al. patent discloses a timer. Should not Ku et al. patent at least mention a timer? It does not.

The lack of disclosure in the Viot et al. patent is not overcome by the Ku et al. patent.

As disclosed in the Viot et al. patent, the output of multiplexer 232 goes to the reset input of counter 20. In order to resemble even vaguely the apparatus recited in claim 9, the output of counter 20 would have to go to the input of multiplexer 232. It does not.

The Examiner's assertion that "Viot et al teach an accumulator (20), as shown in Fig. 1, comprising an up-down counter (30 and 50)" is a gross distortion of the disclosure of the Viot et al. patent. FIG. 1 of the patent discloses counter 12, timer 18, and accumulator 20 as separate elements. As noted in FIG. 1, counter 12 is illustrated in greater detail in FIG. 2 and timer 18 is illustrated in greater detail in FIG. 3. As shown in FIG. 2, up-counter 30 is part of timer 12. As shown in FIG. 3, down-counter 50 is part of timer 18.

1. Accumulator 20 does not "comprise" counter 12.
2. Accumulator 20 does not "comprise" timer 18.
3. Counter 12, timer 18, and accumulator 20 are separate and distinct elements as disclosed in the Viot et al. patent.
4. There is no up-down counter disclosed.
4. Accumulator 20 is not an up-down counter. Accumulator 20 counts to capacity and stops until reset. See above-quoted portion of patent.

Claim 12 was rejected as unpatentable over Viot et al. in view of Ku et al. and Sharpe-Geisler. There is no basis for the combination. The Sharpe-Geisler patent "relates to a circuit for performing a carry in a system utilizing look up tables." This does not appear to be related to a tone detector or a timer. Claim 12 distinguishes over the prior art for the same reasons as claim 9.

In view of the foregoing, it is respectfully submitted that claims 1-12 are in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,



Paul F. Wille

Reg. No. 25,274

Attorney for Applicants

6407 East Clinton Street
Scottsdale, Arizona 85254
Tel.: (602) 549-9088